

**ESB 5048 - H AMD 1123**

By Representative Armstrong

**FAILED 3/3/2006**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 70.155.010 and 2003 c 113 s 1 are each amended to  
4 read as follows:

5 The definitions set forth in RCW 82.24.010 shall apply to RCW  
6 70.155.020 through 70.155.130. In addition, for the purposes of  
7 this chapter, unless otherwise required by the context:

8 (1) "Board" means the Washington state liquor control board.

9 (2) "Delivery sale" means any sale of cigarettes to a consumer  
10 in the state where either: (a) The purchaser submits an order for  
11 a sale by means of a telephonic or other method of voice  
12 transmission, mail delivery, any other delivery service, or the  
13 internet or other on-line service; or (b) the cigarettes are  
14 delivered by use of mail delivery or any other delivery service.  
15 A sale of cigarettes shall be a delivery sale regardless of whether  
16 the seller is located within or without the state. A sale of  
17 cigarettes not for personal consumption to a person who is a  
18 wholesaler licensed pursuant to chapter 82.24 RCW or a retailer  
19 pursuant to chapter 82.24 RCW is not a delivery sale.

20 (3) "Delivery service" means any private carrier engaged in the  
21 commercial delivery of letters, packages, or other containers that  
22 requires the recipient of that letter, package, or container to  
23 sign to accept delivery.

24 (4) "Minor" refers to an individual who is less than eighteen  
25 years old.

26 (5) (~~"Public place" means a public street, sidewalk, or park,  
27 or any area open to the public in a publicly owned and operated  
28 building.~~

29 ~~(6))~~ "Sample" means a tobacco product distributed to members of  
30 the general public at no cost or at nominal cost for product  
31 promotion purposes.

1           ~~((7))~~(6) "Sampler" means a person engaged in the business of  
2 sampling other than a retailer.

3           ~~((8))~~(7) "Sampling" means the distribution of samples to  
4 members of the ~~((general))~~ public ~~((in a public place))~~.

5           ~~((9))~~(8) "Shipping container" means a container in which  
6 cigarettes are shipped in connection with a delivery sale.

7           ~~((10))~~(9) "Shipping documents" means bills of lading,  
8 airbills, or any other documents used to evidence the undertaking  
9 by a delivery service to deliver letters, packages, or other  
10 containers.

11           ~~((11))~~(10) "Tobacco product" means a product that contains  
12 tobacco and is intended for human consumption.

13           (11) "Twenty-one and over location" means a permanent building  
14 that:

15           (a) Sells any type of liquor as defined in chapter 66.04 RCW;

16           (b) Is classified as off-limits to persons under twenty-one  
17 years of age under chapter 66.24 RCW; and

18           (c) Is located over on thousand feet from an outdoor venue.

19           **Sec. 2.** RCW 70.155.060 and 1993 c 507 s 7 are each amended to  
20 read as follows:

21           ~~((1))~~No person may distribute or offer to distribute samples  
22 in ~~((a public place. This prohibition does not apply to sampling~~  
23 ~~(a) in an area to which persons under the age of eighteen are~~  
24 ~~denied admission, (b) in or at a store or concession to which a~~  
25 ~~retailer's license has been issued, or (c) at or adjacent to a~~  
26 ~~production, repair, or outdoor construction site or facility.~~

27           ~~— (2) Notwithstanding subsection (1) of this section, no person~~  
28 ~~may distribute or offer to distribute samples in or on a public~~  
29 ~~street, sidewalk, or park that is within five hundred feet of a~~  
30 ~~playground, school, or other facility when that facility is being~~  
31 ~~used primarily by persons under the age of eighteen for~~  
32 ~~recreational, educational, or other purposes))any place other than~~  
33 a twenty-one and over location."

34           Correct the title.

**EFFECT:** Limits tobacco sampling to twenty-one and over locations.